

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Benjamin Heyward,

Plaintiff,

v.

Bryan P. Stirling;
David W. Dunlap; and
A. Price,

Defendants.

C/A No. 6:18-150-JFA-KFM

ORDER

The *pro se* Plaintiff, Benjamin Heyward, brought this action pursuant to 42 U.S.C. § 1983. (ECF No. 1). Plaintiff filed his Complaint on January 17, 2018. *Id.* On April 4, 2018, Defendants Dunlap and Stirling filed a motion to dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. (ECF No. 17). On April 27, 2018, Plaintiff responded to Dunlap and Stirling’s Motion, conceding that they are not personally involved in this matter and that Dunlap and Stirling “should be dismissed pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.” (ECF No. 26 p. 1). Thereafter, in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(d), (D.S.C.), the case was referred to a Magistrate Judge for Review.

The Magistrate Judge assigned to this action¹ prepared a thorough Report and Recommendation (“Report”) and opines that Defendants Dunlap and Stirling’s Motion to Dismiss

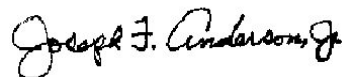
¹ The Magistrate Judge’s review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(d), (D.S.C.). The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b)(1).

should be granted. (ECF No. 28 p. 2). The Report sets forth, in detail, the relevant facts and standards of law on this matter, and this Court incorporates those facts and standards without a recitation. Plaintiff was advised of his right to object to the Report, which was entered on the docket on May 1, 2018. *Id.* The Magistrate Judge required Plaintiff to file objections to the Report by May 15, 2018. *Id.* Plaintiff did not file objections to the Report. Moreover, in Plaintiff's Response to the Defendants' Motion, Plaintiff conceded that the Defendants should be dismissed from this matter. (ECF No. 26 p. 1).

After carefully reviewing the applicable laws, the record in this case, as well as the Magistrate's Report, this Court finds the Magistrate Judge's recommendation fairly and accurately summarizes the facts and applies the correct principles of law. Accordingly, the Court adopts the Magistrate's Report (ECF No. 28). Therefore, Defendants Dunlap and Stirling's Motion to Dismiss (ECF No. 17) is hereby granted without opposition from the Plaintiff.

IT IS SO ORDERED.

May 30, 2018
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge